



At the Commission's January 18 meeting in Los Angeles, the eighteen-month-old Martial Arts Advisory Committee was disbanded. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 55 for background information.) The nine-member Advisory Committee had met six times; two of the members had never attended a meeting and three others have been involved in violations of the Commission's laws and regulations. The Commission appointed a new six-member committee to develop a proposal for regulatory changes to assure safe and fair competition in the martial arts.

Also at the January 18 meeting, representatives of the referee and promoter associations reported to the Commission that the groups had reached an interim agreement concerning a raise for referees and judges. Commission staff had previously recommended a 30% pay increase for the referees and judges, since they have not received an increase in twelve years. The coalition recommended a 12% increase for referees and judges. At its March 15 meeting, the Commission adopted the recommendation as an interim measure while the parties work out a final agreement.

Also at its January meeting, the Commission elected Charles Westlund as chair for 1991; P.B. Montemayor was selected as vice-chair.

At its January 18 and March 15 meetings, the Commission discussed whether the referee or ringside physician should be required to call time out when the physician goes to a corner during a rest period to examine a boxer, and whether the ringside physician in fact has the authority to call such a time out. The Commission agreed that at the present time, ringside physicians do have the authority to call time out to examine a boxer, but that this authority needs to be emphasized as a Commission policy. Staff was instructed to notify officials regarding the Commission's position and draft any regulatory or legislative changes necessary to clarify the policy.

At its March 15 meeting, the Commission noted the expiration of the six-month trial period in which scoring officials were instructed to avoid scoring rounds even, if at all possible. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 55 for background information.) Executive Officer Ken Gray commented that while a substantial reduction of even rounds had been scored, it was difficult to analyze the results. The Commission agreed to return to the method of scoring set forth in section 357, Title 4 of the CCR.

FUTURE MEETINGS:

July 19 in Los Angeles.

August 16 in Los Angeles.
September 20 in Sacramento.
October 18 in Los Angeles.
November 15 in Los Angeles.
December 13 in Sacramento.

BUREAU OF AUTOMOTIVE REPAIR

Chief: John Waraas

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Established in 1971 by the Automotive Repair Act (Business and Professions Code sections 9880 *et seq.*), the Department of Consumer Affairs' (DCA) Bureau of Automotive Repair (BAR) registers automotive repair facilities; official smog, brake and lamp stations; and official installers/inspectors at those stations. The Bureau's regulations are located in Division 33, Title 16 of the California Code of Regulations (CCR). The Bureau's other duties include complaint mediation, routine regulatory compliance monitoring, investigating suspected wrongdoing by auto repair dealers, oversight of ignition interlock devices, and the overall administration of the California Smog Check Program.

The Smog Check Program was created in 1982 in Health and Safety Code section 44000 *et seq.* The Program provides for mandatory biennial emissions testing of motor vehicles in federally designated urban nonattainment areas, and districts bordering a nonattainment area which request inclusion in the Program. BAR licenses approximately 16,000 smog check mechanics who will check the emissions systems of an estimated eight million vehicles this year. Testing and repair of emissions systems is conducted only by stations licensed by BAR.

Approximately 80,000 individuals and facilities—including 40,000 auto repair dealers—are registered with the Bureau. Registration revenues support an annual Bureau budget of nearly \$34 million. BAR employs approximately 600 staff members to oversee the Automotive Repair Program and the Vehicle Inspection Program.

Under the direction of Chief John Waraas, the Bureau is assisted by a nine-member Advisory Board which consists of five public and four industry representatives. They are Herschel Burke, Carl Hughett, Joe Kellejian, Louis Kemp, William Kludjian, Vincent Maita, Alden Oberjurgue, Gilbert Rodriguez, and Jack Thomas.

MAJOR PROJECTS:

Rulemaking Update. Despite public hearings and extensive agency drafting efforts, BAR recently withdrew several proposed regulatory changes from the rulemaking process. Two of the withdrawn changes had shown particular promise for protecting the public. First, the proposed amendment of regulatory section 3356 would have prohibited dealers from billing on an invoice for items generically described as "shop supplies," "miscellaneous parts," or the like. The withdrawal of this proposed change allows dealers to continue to charge for items not specifically itemized on invoices. Second, the amendment of section 3362.1 would have prohibited degrading the effectiveness of a vehicle's original emission control system in the course of rebuilding an engine or installing a replacement engine. The withdrawal of this proposed change allows the continued risk of tampering with emission control systems designed to ensure cleaner air. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 50 and Vol. 10, No. 4 (Fall 1990) p. 56 for background information on these regulatory proposals.)

The Bureau plans to repropose these regulatory changes in the near future.

SB 1997 Implementation and Progress Report. Among other things, SB 1997 (Presley) (Chapter 1544, Statutes of 1988) requires Smog Check stations to purchase new equipment to perform emissions testing. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 56; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 70; and Vol. 9, No. 4 (Fall 1989) p. 44 for background information on SB 1997.) Since July 1990, when the new BAR-90 test analyzer system machines became available, 7,250 licensees have purchased the equipment necessary to conduct vehicle emissions inspections pursuant to SB 1997. However, approximately 300 stations still have not complied with the equipment requirement. Thus, while technically licensed, these establishments may not legally perform emissions tests. BAR is currently visiting these "pending" stations to determine why they have not yet complied with SB 1997 and whether their licenses should be revoked.

Testimony on Complaint Procedures Offered to Assembly. In January, BAR representatives testified before the Assembly Committee on Consumer Protection, Governmental Efficiency and Economic Development, delivering an overview of the Bureau's complaint handling procedures and the results of a consumer satisfaction survey.



REGULATORY AGENCY ACTION

The testimony revealed that BAR received 40,504 complaints in fiscal year 1989-90. Of those received, 38,122 complaints were closed, with an average of 3,177 complaint cases closed per month. BAR's average time to achieve case closure was 54 days, and the total amount of money returned to consumers through BAR's complaint process was \$4,248,343. During 1989-90, the Bureau received over one million calls on its toll-free telephone number for inquiries and complaints, which has eight incoming lines and fourteen staff employees.

BAR also surveys all consumers and automobile repair dealers involved in closed complaints, asking for their opinions about its complaint handlers and program; the results of a recent survey were revealed to the Committee. The survey showed that, although only 58.2% of the consumers were satisfied with the results, 79% of the consumers would recommend BAR's services to others. Almost 95% of consumers surveyed described BAR's complaint handlers as courteous, and 81% responded that the complaint program is fair.

Federal Clean Air Act Compliance. The new federal Clean Air Act has prompted the U.S. Environmental Protection Agency (EPA) to propose changes in its enforcement guidelines which would affect California's Smog Check Program. (See CRLR Vol. 11, No. 1 (Winter 1991) pp. 50-51 for background information.) Although many changes may be necessary to ensure California's compliance with the Clean Air Act, a current controversy involves EPA's proposed increase in the ceiling for repair costs, from the current sliding scale system to an across-the-board \$450 limit. The sliding scale ceiling costs, which were contained in SB 1997 (Presley), range from \$50 for pre-1972 cars to \$300 for post-1989 cars.

Much of the opposition to the EPA proposals hinges on the burden placed on owners of early model cars. California officials assert that older vehicles, which generally belong to low-income people, are usually the vehicles in need of extensive repairs to pass the emissions test. BAR statistics indicate that about 75% of the highest-polluting vehicles in the state are more than fifteen years old.

Another Clean Air Act compliance issue involves centralized inspection. The EPA is considering recommendations which would require inspections to be conducted only at state-owned facilities where a smog check "pass" or "fail" is issued but no repairs are made. According to the EPA, one advantage of this recommendation would be increased

compliance because local gas stations, which rely on return business, would not be tempted to pass vehicles that should fail. Another advantage might be reduced cost; while certified Smog Check Program stations in California advertise fees ranging from \$19 to over \$35 per inspection, EPA officials cite a survey of fourteen states with separate testing stations which revealed an average cost of \$8.50 per inspection. A principal disadvantage to consumers would be the end of "one-stop" inspection and repair.

This issue is not new to California legislators; the debate over a centralized system triggered a legislative battle in the 1970s, when the current Smog Check Program was formulated. Many California officials would prefer to maintain the system currently in place, citing state-of-the-art testing equipment and strict mechanics' licensing requirements as safeguards against the potential abuses targeted by the EPA recommendations.

Until the EPA guidelines are published in June, negotiations between state and federal air quality officials will continue.

LEGISLATION:

SB 290 (Presley), as amended March 11, would make numerous changes to existing laws defining BAR's scope and responsibilities. Under existing law, the DCA Director is required to prescribe the fees for automotive repair dealer registration and renewal at not more than \$100; this bill would increase that amount to \$200, and would increase the penalty for late renewal from \$25 to \$50.

Existing law requires DCA to prescribe certain emission standards to be applied in inspecting motor vehicles. This bill would require the Department, in cooperation with the Air Resources Board (ARB), to adopt certain standards for, and procedures for identifying vehicles with, visible emissions. The bill would subject vehicles violating those standards to prescribed repair cost limitations.

Existing law requires Smog Check stations where repairs are also performed to post a sign with a list of prices, as specified. This bill would require the signs to be posted in all stations where inspections are performed.

Existing law authorizes DCA to license the owner of a fleet of fifteen or more vehicles to conduct smog tests on the fleet's vehicles. This bill would authorize those licenses as to fleets of ten or more vehicles.

Existing law establishes a Training Course Advisory Board to assist and advise the Department in recommending

Smog Check mechanic training courses. This bill would authorize the DCA Director to establish, by regulation, the term of office of the members of the Advisory Board.

Existing law requires DCA to quarterly publish a written summary of specified information for mechanics and Smog Check stations, and to make it available to the public upon request. This bill would require the summary to be available annually to the mechanics and Smog Check stations.

Existing law requires a Smog Check mechanic's qualification to be permanently revoked upon a fourth citation. This bill would authorize, rather than require, that revocation.

Existing law provides for a hearing after service of a citation to a Smog Check station, inspector, or fleet owner licensee. This bill would provide that the required service of the citation includes service personally, by registered mail, or by courier.

Existing law prohibits the renewal of a Smog Check test or repair station license if a civil penalty or the amount of a settlement is unpaid. This bill would also prohibit the issuance of a license under those circumstances, and would prescribe additional grounds and procedures for the suspension, revocation, or refusal to issue a license. This bill is pending in the Senate Transportation Committee.

AB 438 (Lancaster). The Automotive Repair Act requires every automotive repair dealer to register with BAR; the Act defines the term "repair of motor vehicles" as all maintenance of and repairs to motor vehicles performed by an automotive repair dealer, except as expressly limited. As introduced February 6, this bill would specifically include automotive body repair work within the definition of the term "repair of motor vehicles" for the purposes of the Act. This bill is pending in the Assembly Committee on Consumer Protection, Governmental Efficiency and Economic Development.

AB 691 (Hayden), as introduced February 25, would make a statement of legislative intent and would, on and after January 1, 1993, except as specified, require the use of refrigerant recycling equipment approved by ARB in the servicing of vehicle air conditioners and other specified activities in the course of which specified refrigerants are or may be released. The bill would impose specified civil penalties for violation of these provisions and would require BAR to establish and administer procedures for the installation and use of that



equipment. This bill is pending in the Assembly Committee on Environmental Safety and Toxic Materials.

SB 295 (Calderon), as introduced February 5, would limit the cost for a Smog Check test only to \$15, exclusive of the charges for the certificate. This bill would require an additional \$1 charge for the certificate; the proceeds of this charge would be used to fund a program for individuals to report to ARB, through a toll-free telephone number or on printed forms, vehicles which emit unusual amounts of pollutants. This bill is pending in the Senate Transportation Committee.

SB 573 (Rosenthal), as introduced February 28, would enact the Rosenthal Used Car Warranty Act, and require BAR to establish a program for certifying a third party dispute resolution process used for arbitrating disputes relating to the warranties on used motor vehicles. BAR currently administers a similar program for new car warranty disputes. This bill is pending in the Senate Committee on Insurance, Claims and Corporations.

AB 211 (Tanner). Existing law provides that if a new motor vehicle is transferred by a buyer or lessee to a manufacturer because of the manufacturer's inability to repair a nonconformity to an express warranty, then no person shall sell or lease that motor vehicle unless the nature of the nonconformity is disclosed, the nonconformity is corrected, and the manufacturer provides a new warranty in writing. As introduced January 9, this bill would provide that no person shall transfer, in addition to the prohibition against selling and leasing, a motor vehicle in that situation unless that correction is made, and that disclosure and warranty are provided. The bill would require BAR to issue regulations regarding the disclosure of the nature of the nonconformity. This bill is pending in the Assembly Ways and Means Committee.

AB 1118 (Johnson). Existing law authorizes DCA to suspend or revoke the license of a Smog Check station or mechanic under prescribed circumstances, according to procedures adopted in the Department's rules and regulations. As introduced March 5, this bill would require DCA to publish the rules and regulations, including guidelines for disciplinary action or the terms of penalties or probation. The bill would prohibit the suspension or revocation of a Smog Check station license, including a Smog Check test only station, absent negligent or other specified conduct by the owner. That negligence would be presumed in certain instances. The bill would prohibit revocation of the station's license unless

the Department proves that the owner has violated the law or regulations four or more times in 24 months. This bill is pending in the Assembly Transportation Committee.

RECENT MEETINGS:

At its February 8 Advisory Board meeting in El Toro, BAR conducted officer elections to cure the defective officer elections conducted at the Board's November 9 meeting in San Luis Obispo. The November 9 elections violated the Bagley-Keene Open Meeting Act (Government Code section 11120 *et seq.*) because prior notice of the elections had not appeared on the agenda distributed in advance of the meeting. On February 8, the Board elected William Kludjian and Jack Thomas as Chair and Vice-Chair, respectively.

Also at the February 8 meeting, Dan Buntjer, Supervising Counsel from DCA's Legal Office, updated the Board on public meeting laws. Mr. Buntjer advised the Board on the Bagley-Keene Act, with particular reference to the elections and notice violation mentioned above. He also described the scope of other provisions in the Bagley-Keene Act, and the penalties for their violation.

The Board also heard from William Gandsey, Supervising Special Investigator, Petroleum Products, Division of Measurement Standards, California Department of Food and Agriculture (CDFA). Mr. Gandsey reported on violations of alcohol content in gasoline at service stations. In a recent southern California survey, 91 stations were sampled for alcohol content and 46 fuel samples contained alcohol. Of the 46, ten cases rose to the level of actual violations. Mr. Gandsey's CDFA division oversees gasoline pump labeling at service stations and monitors the alcohol content in gasoline; he stated that the penalty for violation is a misdemeanor, including the possibility of fines up to \$1,000 or six months in jail.

Bureau Chief John Waraas reported on the new \$1.7 million statewide public awareness contract awarded to Los Angeles-based Edelman Public Relations Worldwide. Sacramento-based Johnson/Smith/Hobbs/McNally was awarded a \$119,000 contract to conduct a similar campaign in Glenn and Butte counties, and parts of Yolo, Solano, and San Bernardino counties. Upcoming public awareness events include mechanics' workshops in Chico, Fairfield, and Apple Valley.

FUTURE MEETINGS:

August 9 in Los Angeles.
November 8 in Napa.

BOARD OF BARBER EXAMINERS

Executive Officer: Lorna P. Hill
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In 1927, the California legislature created the Board of Barber Examiners (BBE) to control the spread of disease in hair salons for men. The Board, which consists of three public and two industry representatives, regulates and licenses barber schools, instructors, barbers, and shops. It sets training requirements and examines applicants, inspects barber shops, and disciplines violators with licensing sanctions. The Board licenses approximately 22,000 barbers, 5,000 shops, and 20 schools.

BBE's enabling act is currently found at Business and Professions Code section 6500 *et seq.*; the Board's regulations are located in Division 3, Title 16 of the California Code of Regulations (CCR).

On July 1, 1992, BBE and Board of Cosmetology (BOC) will merge, pursuant to AB 3008 (Eastin) (Chapter 1672, Statutes of 1990). The Business and Professions Code sections which establish BBE and BOC will be repealed and replaced with an enabling act creating the Board of Barbering and Cosmetology (BBC), which will provide for the licensure and regulation of persons engaged in the practice of performing specified acts relating to barbering, cosmetology, and electrolysis.

MAJOR PROJECTS:

Merger with Board of Cosmetology. In conjunction with BBE and BOC, the Department of Consumer Affairs (DCA) recently hired Kirk Marston as associate governmental program analyst to develop regulations for the merged BBC. Pursuant to AB 3008 (Eastin) (Chapter 1672, Statutes of 1990), the appointment is for a limited period of 18 months. Funding for the position will be jointly provided by BBE and BOC. (See CRLR Vol. 11; No. 1 (Winter 1991) p. 51; Vol. 10, No. 4 (Fall 1990) p. 58; and Vol. 7, No. 1 (Winter 1987) p. 1 for extensive background information on the merger.) Mr. Marston was introduced at the Board's February 25 meeting.

Board Considers Removal of the Shave from Licensing Examination. At the Board's February 25 meeting, BBE member Elton Pamplin once again proposed deletion of the shaving requirement as a demonstrated skill on the state licensing examination. (See CRLR Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 73-74 and Vol. 9, No. 4 (Fall 1989) p. 46 for background information.) According to Pamplin, his poll of the state's barber colleges indicated that all